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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 813

EDYTHE L. R. DYER, Petitioner

vs.

EDWARD P. MURRAY, as successor trustee under the will of the late JOHN CASSIDY, JANE MURPHY SULLIVAN, JOHN CASSIDY, BARBARA ANN CASSIDY, ROSELLA MARIE CASSIDY FLYNN, and JOAN CASSIDY STETSON respondents.

Petition for Rehearing of Petition for a Writ of Certiorari.

EDYTHE L. R. DYER
petitioner pro-se
c/o 61 State St.
Bangor, Maine
March (29th) 1965

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To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States.

Your petitioner prays and presents for a rehearing of this Court's order dated March 8, 1965, denying the Petition for a Writ of Certiorari to the Supreme Court of the United States; and in support thereof wishes respectfully to better show the kind, quality and quantity of vested rights which simplify these claims, and the unconstitutional assumptions made by the Supreme Judicial Court of Maine, in E. P. Murray vs. Sullivan (179 A 2nd 307) (158 Me. 98)

CONSTITUTIONAL PROVISIONS

Amendment XIV:—"nor shall any state deprive any person of life, liberty or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws.

Your petitioner EXPECTED The Maine Law Court "as per" the agreed facts, in the Court Record,—to act in a CONSTITUTIONAL manner upon the agreed FACT, that my grandfather died on March 25, 1918.—(not to substitute a fictitious death date assumption.)

Your petitioner expected the Maine Law Court to CONSIDER and RESPECT these Constitutional rights when the case was presented to the Court,—The Court has NOT ruled upon these rights, AND it "declines" to rule upon my rights, AS VESTED.

FOR EXAMPLE

1. As would be vested by the same standard pattern of the (1961) laws of the State of Maine for the descent among lineal descendants of intestate property.
2. As would be vested by the statute, to descendants of

a previously undistributed (testate) estate—(43) years after the death of the decedant.

3. As would be vested, in ANY Maine citizen's descendants who were of unequal degrees of kindred WHEN HE DIED.

Therefore, in fairness, and having NO other recourse, I am TOTALLY at the mercy of the Supreme Court of the United States, to which I pray for reconsideration, relief, and equitable justice, to enforce the "due process" and "equal protection" clauses of the constitution which IS "Fundamental" law.

JURISDICTION

The Jurisdiction of this Court is invoked under 28 USC 1257 (3) conferring jurisdiction on this Court over final judgments or decrees rendered by the highest court of the State of Maine, when claimed under the U. S. Constitution.

It is my understanding that the Supreme Court of the United States, if it so wishes, may waive its own rules, when injustice is obvious.

If constitutional rights have been violated, it follows (as the night follows the day) that the decision of the Maine Court is VOID,—from the beginning,—and will not improve with time.

Because the decision rendered by the Maine Law Court in this case IS and always has been, unconstitutional (ab initio)—and I have constantly protested, even the partial distribution of the estate (now being distributed); I have been denied my rights AS VESTED.

Your petitioner is the only ISSUE of Mr. Cassidy's child who predeceased him.

Your petitioner and Mr. Cassidy's (4) children's DEGREES of KINDRED were UNEQUAL, at the time of his DEATH on March 25, 1918.

As a direct and immediate lineal DESCENDANT of the late John Cassidy, your petitioner CLAIMS and prays for the SAME rights which were vested by my grandfather's will, as the Laws of Maine ALONE would NOW PROVIDE--"if" the LAW, now distributed the estate on the basis of the KINDRED FACTS KNOWN TO BE TRUE, at the time of his death. (The meaning of the statute and the intention of the WILL, both being SYNONYMOUSLY incorporated by reference.

It is the DUTY of the Supreme Judicial Court of Maine to uphold the pattern and "Public Policy" of the laws, the Constitution of the State of Maine and the Constitution of the United States at all times.

(126A. 823) Methodist Church vs Fairbanks (124 Me. 188)

However, in the plainest language, the unchanged "public policy" of the long established laws of the State of Maine for the descent and distribution of intestate property; as specifically prescribed by the Maine Legislature, to PROVIDE the manner and proportions by which DESCENDANTS of Maine citizens may legally claim their FUNDAMENTAL VESTED RIGHTS, to intestate property; HAVE BEEN VIOLATED by the SUPREME JUDICIAL COURT:—ITSELF.

In The Plainest Language; the statute said in part: (quote) ("IF NO CHILD IS LIVING AT THE TIME OF HIS DEATH") —The Court construed this part of the statute

to mean--if no child is living at the time Mr. Cassidy's TRUST terminated. Here the Maine Court has acted in direct contravention of established Maine rules, which should be observed in the construction of STATUTES.

NAMELY: (quote) "That words and phrases used in statutes shall be construed according to the common meaning of the language." (126A 823). Also (Maine Revised Statutes 1954, Chap. 10, sec. 22)—"The RIGHTS of DESCENT flow from the legal status of the PARTIES, and where the status is fixed, the law supplies the rules of descent, with reference to the situation as it existed AT THE DEATH of the DECEDANT. (Getchell vs Curtis 134 Me. 302) (182 A669) (Emphasis added)

IT IS CERTAIN:—

(1) That; the day of Mr. Cassidy's death is known and FIXED.

(2) That: "ALL" of his lineal descendants degrees of kindred, were known and could only be FIXED on the day of his death, as being of unequal degrees of kindred.

(3) That a man's children cannot be OMITTED from the manner and "public policy" of the Statute,—if living—when he died.

Mr. Cassidy clearly INTENDED (by reference) to copy and provide the SAME, kind, quality, and quantity of rights to flow, to ALL of his descendants.

But:—NOT "as though" he is NOW DEAD INTESTATE, on June 9, 1961; by OMITTING his children, as the court has ruled.

FOR EXAMPLE:

> IF Mr. Cassidy's children were *not* living when he died on March 25, 1918, his estate would "then" have been SAME as "then" INTESTATE.

However:

BECAUSE his children, and the ISSUE of a dead child, WERE living when he DIED, the TRUST he created did not OMIT them,—it just denied "all" of his descendants the right to claim the corpus of his estate (as the statute would provide).

However when his trust—"OUT-TRUSTED" his children's lives,—his SAME surviving lineal descendants were unrestricted to then claim the Fixed Rights which were inherently Vested in them, by right of Representation (per stirpes)

The provisions of the statute appropriately INCLUDED his children, in order to ascertain the REMNANTS of his present "family groups".

It is also important to note:—That the "manner" of the statute would not be concerned with the intentions of the man whose estate is intestate. The STATUTORY LAW (the testate intention) could only concern itself with the RIGHTS of his survivors,—which were (ALWAYS) vested in his survivors, from the moment of his death. (which was March 25, 1918)—And not when his last child (who survived him) died on June 9, 1961.

OBVIOUSLY it IS the DUTY of the Maine Court to PERMIT the same manner of the statute to "appropriately" provide the requested pattern for ALL of Mr. Cassidy's lineal descendants EXACTLY as the LAW provides, at

ALL times, for ALL other Maine citizens, remainder estates, (past or present)

RESTATEMENT OF THE CASE

The plain JUSTICE of this case is that when a long established statute is lawfully passed into the "fundamental" law or constitution of a state, it becomes the property of the citizens to copy, follow and depend upon as a standard of measure. It is imperative upon courts to declare and administer it, as the law of the state.

AT THE BEGINNING of Mr. Cassidys will, he said:—

(quote)

"I, John Cassidy, hereby make, publish, and declare this my last will and testament, herein disposing of all my estate, real, personal and mixed. After payment of all just debts, funeral charges and expenses of administration, I DISPOSE of all the remainder of my estate as follows."

(Please Note)

Nobody can deny that "hereby" and "herein" Mr. Cassidy "disposed" of all of his estate, as a TESTATOR on March 25, 1918.—(at the time of his death).

HE ALSO SAID (quote)

"I expressly direct that neither my said trustees, nor their successors, shall have any power of authority in any manner whatsoever to convey any part of any of my real estate, of any name or nature, wherever found, or situated, that I now own or possess or may own or possess AT THE TIME OF MY DECEASE."

HE ALSO SAID (quote)

"This express prohibition against any such convey-

ance of real estate to continue AS LONG as this TRUST continues, namely, until the decease of each and all of my aforesaid five children above particularly named."

(Please Note)

There can be no doubt;

(1) That the testator expected and intended to be survived by five children.

(2) That the testator expressly directed that his trustees had no authority to transfer any of his estate, AS LONG as the TRUST continued.

(3) There can be no doubt, that ALL of what he owned or possessed AT THE "TIME" OF HIS DEATH:—He "THEN" DISPOSED OF.

HERE IS WHAT THE TESTATOR SPECIFIED in his WILL—for the FINAL DISTRIBUTION METHOD and MANNER, his TRUSTEES were DIRECTED to FOLLOW:

Mr. Cassidy clearly said in his WILL:

(quote)

. . . . "Upon the termination of this trust as aforesaid, namely after the deceased of all of my said five named children, all of my estate in whatever form the estate shall then be, shall then vest in and become the property of all of my LINEAL descendants, if any, then living." (HOW) "in the same manner and in the same proportions as shall then be provided by the then existing laws of the State of Maine, for the descent among "lineal" descendants of intestate property, real and personal. (emphasis added)

On page (19) of the Court Record (Re: the WILL)—Mr. Cassidy said:— (quote)

> "and AT the termination of this trust, as afore especially provided, MY Trustees for the time THEN being, shall make ALL necessary "conveyances" and transfers, both of realty and personalty, to "carry out" the PROVISIONS of this WILL, and to convey and transfer THE SAME, in so far as it may be necessary, to persons who shall be entitled to the same, as above specified." (emphasis added)

The applicable MAINE DESCENT and DISTRIBUTION STATUTE, which protects the "VESTED" RIGHTS of ALL descendants, of all INTESTATE ESTATES—in the State of Maine is as follows:

(quote) Revised Statutes of Maine, 1954 Chap. 170 Sec. I—Sub sec. II

> . . . . "The remainder of which he dies seized, and if no widow* or widower, the whole shall descend in equal shares to his children, and to the lawful issue of a deceased child by right of representation—IF no child is living at the time of his death, to all his lineal descendants; equally, if all are of the same degree of kindred; if not, according to the right of representation." (*no widow)

This, statute (both parts) specifically confirms itself. Let's read the statute again; (IN THE FIRST PERSON SINGULAR) Let's substitute (the pronouns) ("he and his") for ("I" and "my")—as any testator would do,—if he "borrowed" this law, for his will pattern. IF the statute is CORRECT (without the court's (omissions) (assumptions) and (fiction), then the will is correct because their

intentions are SYNONYMOUS and Specified to be the complete patterns for the testators INTENTION. The Maine court has however, artifically said, (in effect) "how" and "what" the Main Descent statute MUST PROVIDE.—However:

> "The statute fixes its own rules and by these rules we must be governed" (Messer vs Jones 88 Me. 353) (67 Me. 583) (45 Me. 115)
>
> Courts must enforce the law as they find it (Coffin vs Rich) 45 Me. 507.
> The entire statute falls where parts of it are not severable
>
> (Paine vs Savage 126 Me 121)
>
> (241 US 79) (60 USL ed. 899) (256 US 642)

SUCH IS THE MANDATE of the LAW, and the WILL. BECAUSE all WILLS "SPEAK" from the true date of the death of a TESTATOR. The survivor's rights—ARE also the "same" under the statute AS THOUGH they always were VESTED.

The ONLY reason any man is INTESTATE, is because he HAD NO legal INTENTION—except the STANDARD PATTERN which the state provides for all citizens ALIKE. (something like "castor oil")

The Maine Law Court should "believe", adopt, and protect the only NATURAL pattern of the STATUTE.—(Without omissions, substitution, or fiction) (Because there is no other LEGAL BASIS, under which descendants can claim).

The Maine Court has no authority to "THINK" for the STATUTE.—(But it HAS!) (Quote the court's decision in this case:)

. . . . "WE THINK it most unlikely that the testator ever INTENDED that a grandchild who suffered some loss of his (Mr. Cassidy's) affection, because of her mother's disregard of his wishes, should receive substantially more of his estate than other grandchildren, whose parent had never seemingly incurred such marked parental displeasure. (This is impossible, unworkable intestate law) (What does this court's assumption have to do with THE SAME MANNER and the same PROPORTIONS as shall be provided by the laws of the State of Maine?)

In the "eyes" and "manner" of the descent statute,—this kind of construction is meaningless fiction;—it doesn't have a legal leg or foundation to stand upon. It is typical of the Court's theory of a man being NOW DEAD and NOW INTESTATE—(43) years after his true death date.

It is clear that the WILL SPOKE and specified at the date of the DEATH of the testator, and the testator's WILL then SPECIFIED "HOW" and by what "LEGAL" MANNER and PROPORTIONS, his PREVIOUSLY undivided estate could be "LEGALLY CLAIMED" by his "LINEAL DESCENDANTS,"—("if any") of them were then living, AFTER his TRUST terminated.

As Practical people we know that if a court prescribed castor oil—to cure a "toothache";- -that does not necessarily mean that the toothache must go away. Or that the oil will not perform its natural function—regardless of the court. When a man borrows the INTESTATE pattern of the LAW: the state (in effect) does his thinking for him, or at least (his thinking is SYNONYMOUS with the LAW.)

The FACT that his children WERE living when he died,—COMPELS the court to follow the statute. (exactly) (or

violate the LAW)

If we REMOVE the Maine court's FALSE death date—all the pieces of the will and statute fit together perfectly.

The Constitution of the United States—says that all citizens of the United States,—(Black, White, Yellow and Pink) must be PROVIDED for in the SAME way and have the SAME RIGHTS.—When the Constitution of the State of Maine and the United States Constitution says that all citizens are entitled to:

(A) Due process of the law and

(B) Equal PROTECTION under the law

it does not mean that the STANDARD PATTERN of the Maine Descent Statute can PROVIDE artificial, or different things for SOME PEOPLE at TWO different times. (such as for the ISSUE of a predeceased child, on March 25, 1918) (and something else on June 9, 1961) BECAUSE—the Maine Descent Statute "provides" only ONCE for DESCENDANTS of any INTESTATE ESTATE.

The Maine Court WAS NOT asked, what the law now "provides"; "IF" Mr. Cassidy NOW DIED.—OR if he is "as though" now dead INTESTATE. Or if all of his lineal descendants—are now his only descendants;—The answers to these questions are elementary and known. (But these are what the Court ruled upon)

However, the Maine Court will not say that Mr. Cassidy died on June 9, 1961,—but the court ADMITS that it has ruled "AS THOUGH" he died on June 9, 1961. (which is wrong, arbitrary unnecessary and just NOT the TRUTH) The laws of Maine DO provide a "Pattern" for Mr. Cassidy's trustees to "now" follow (SAME as the LAW would now follow) if he died on March 25, 1918.

The Supreme Judicial Court of Maine cannot constitutionally suspend the plain meaning of the Maine descent statute (for "Some" of his descendants) or (as to when it may be applied) or to arbitrarily assume that Mr. Cassidy "actually" died On June 9, 1961; imposes a new duty, burden, and disability, upon considerations already PAST, which does violence to the present descendants rights, which have now vested in them, in the same manner as the statute would and could now provide—if the "law" now distributed Mr. Cassidy's "previously" undistributed remainder. Therefore the principle that every statute which requires some condition of the "past" to be now applied, would require the (1961) descent statute, to function in the same manner and the same proportions as the LAW PROVIDES for ANY previously undistributed estate,—which for any reason is now considered to be (same as) intestate property.

Please Note

It is vital to note that the court has allowed "some" of Mr. Cassidy's lineal descendants SPECIAL privileges which the statute DOES NOT provide for "all" Maine citizens at "all" times.

Two different death dates and two different sets of lineal descendants, constitutes unrealistic, capricious, "special privilege." and discrimination against SOME members of any Maine citizen's "family groups." IT is the duty of the Law Court to enforce and protect this law.

Obviously,—even IF the testator did intend to "as though" die on June 9, 1961;—as the court has ruled; such an intention would be void because the laws of Maine do NOT NOW (on June 9, 1961) apply to a man who died (43) years previously. It would be contrary to the Public policy

of the Statute. It would be impossible, for his trustees to borrow a pattern of the law which DOES NOT AND CAN NOT APPLY TO ALL of Mr. Cassidy's descendants—(at a time when he did not die) The LAW CAN ONLY now do, same as it would now do, for "any" Maine citizen.

IMPORTANT: (please note)

Under the provisions of the descent statute which Mr. Cassidy SPECIFIED: his children would have had vested rights,—"But the estate was testate, and the INTESTATE provisions which (under the statute) existed "for his children";—were dominated by the TRUST, which limited the INTESTATE provisions effectiveness, until the trust terminated.

Then: when the trust terminated, the appropriate application provided "only" by the statute, for ALL of Mr. Cassidy's descendants; became the final practical and "legal" pattern of the WILL.

Mr. Cassidy did not OMIT his children from the provisions of the descent statute;—he just "OUT-TRUSTED THEM."

Please note:

The Testator, in his will, used two words, ANY and ALL to describe his descendants. Referring to his testate—INTENTION, he said IF ANY of my lineal descendants are "then" living, after the death of my last surviving CHILD, —ALL of my remainder shall THEN vest in ALL of my lineal descendants. (NOT just ANY of them who might just then be living).

"ALL" of Mr. Cassidy's lineal descendants were his "FAMILY GROUPS"—who were living when he died. The LAWS of Maine on (6/9/61) CAN ONLY "NOW" contemplate the (RETROSPECTIVE) (FAMILY GROUP)

—(FIXED STATUS) of all of his lineal descendants,—in order to determine the rights of the present surviving DESCENDANTS,—who CLAIM and can PROVE to NOW be his DESCENDANTS (OF UNEQUAL DEGREES OF KINDRED).

The Will, statute and HIS trustees, on June 9, 1961 could ONLY ask—

Who,—is a lineal descendant of Mr. Cassidy?

What,—is a lineal descendant of Mr. Cassidy?

When,—is a lineal descendant of Mr. Cassidy?

There is no rational provision or latitute for any other assumptions, by the Court.

The Court has said that NONE of the estate vested in anyone until June 9, 1961:—But that is not the consideration. The question is, WHAT RIGHTS under the pattern of the WILL and statute DID HIS DESCENDANTS—have "then" vested to CLAIM from the "previously undistributed" remainder of his estate?

Obviously the Will directed his TRUSTEES to copy and act upon the fact that his children WERE living when he died. While HIS WILL and trust did NOT release HIS estate; to his children, or his grandchildren, or the ISSUE of his pre-deceased child, "UNTIL", June 9, 1961, it is crystal clear that the WILL DID then provide his descendants with rights to claim the SAME RIGHTS, which the Statute would then provide for ANY MAINE citizen with a similar family status.

The IMPOSSIBLE—premis that—Mr. Cassidy's descendants were a new 1961 Class—"as though" he now died is really INCONGRUOUS BECAUSE THE WILL THEN

SPECIFIED;—

the same manner and the same proportions as shall then be provided by the (1961) laws of the State of Maine, for the descent among lineal descendants of INTESTATE property.

IN BRIEF:
Same as the LAW would then DO "IF" the LAW "then" DID distribute Mr. Cassidy's previously "undistributed" remainder on 6/9/61. The specified TESTATE application was SYNONYMOUS with that which the INTESTATE PATTERN of the LAW must provide for all Maine citizens.

However the Court said:

"There is further agreement that, whatever the respective shares of the ultimate takers, the remainder DID NOT VEST in them until after the death of the testator's last surviving child,—such having been provided by the language of the will with great care and particularity." (Emphasis added)

(Please note)

At this point, the court wandered away from the facts of this case. Here the court has refused to recognize that the testators INTENTION took on a DUAL capacity. (1) The WILL spoke for itself together with all of the "applicable" intricacies of the LAW of WILLS. (2) The Maine descent statute spoke for the descent of INTESTATE property, and all the applicable intricacies of intestate law. Together both forces combined to represent Mr. Cassidy's "TESTATE INTENTION" as though the "PROVISIONS" of the statute were written into the will.

It is elementary to state, that if Mr. Cassidy's INTENTION was TESTATE; that his whole estate and will dates from

the date of HIS DEATH. If a man has no INTENTION, and his estate vests "without legal" intention,—then the LAW of the State of Maine does his thinking for him. "only" from the date of HIS DEATH.

IN BRIEF:

On June 9, 1961. John Cassidy's WILL was without a TRUST, it then adopted (by reference) the SAME MANNER (the same RIGHTS) which the Maine descent statute NOW and ALWAYS has provided for "ALL" lineal DESCENDANTS of ANY man, (such as Mr. Cassidy) who was survived by "All" of his lineal descendants who were of UNEQUAL degrees of kindred. The testator's "specified" provisions (which the Court lightly referred to; are IN THE STATUTE, they must now be adopted exactly the SAME (nothing more, nothing less) then the STATUTE would now provide, for any other Maine citizen's lineal descendants.

PLEASE NOTE:—

The STATUTE CANNOT provide anything for Mr. Cassidy "now"—It matters NOT when the court said he "AS THOUGH" died. BECAUSE the important fact IS:

> that some of his DESCENDANTS NOW "DO" claim vested rights and can PROVE that they were living when Mr. Cassidy died on March 25, 1918. (the first time he died)

PLEASE NOTE

It is the DESCENDANTS RIGHTS (not the testator's rights) for which the STATUTE provides). The Court may construe for his descendants—"as though"—he died on (6/9/61). But; the STATUTE alone provides the LEGAL pattern for these people who NOW CLAIM, "descendants" RIGHTS under the Will.

IT is the DESCENDANTS RIGHT—to CLAIM the SAME estate, (the will was vested by the testator)—NOT the jurisdiction of the court to VEST the estate "as though" Mr. Cassidy died on June 9, 1961. (without children)

Here the Maine Law Court has said in effect, that it makes no difference what an individual may desire to do in disposing of his estate,—the Law Court will make the right decision for him,—even though in so doing the individual's intent may be defaulted and the objects of his bounty deprived of the RIGHTS which "He" has VESTED in them.—Under the laws of the State of Maine and the Constitution of the United States.

The testator obviously expressed his intent that his estate be distributed according to the restricted terms and provisions of the statute.

(which simply states that when children are living at the time of his death, his estate must be distributed, (per Stirpes)—The COURT has REFUSED to follow the testators directive, thereby denying your Petitioner's Vested Right of EQUAL Protection under the laws, and her property rights (Without) DUE PROCESS of law guaranteed under the fourteenth Amendment.

The survivors, on June 9, 1961, (as provided by the LAWS of the State of Maine) did legally claim "descendants rights" under the Cassidy will,—WHICH THE COURT should have recognized as being by RIGHT OF REPRESENTATION (per-stirpes)

The court said: (quote)

"In the two phases of his testamentary plan the tes-

tator had TWO distinct classes of LINEAL DESCENDANTS in Mind." In the support payment clause he was providing only for the lineal descendants of those of his children who should die prior to the termination of the TRUST."

(Quote the Court)

"In the termination and final distribution phase, the testator's concern was for all of his "own" lineal descendants, a CLASS or group more broadly based and restricted only by the limitations fixed by the incorporated statute." (Emphasis added)

(Please Note)

(The court's assumption would have been O.K. if Mr. Cassidy actually died on June 9, 1961) (or, if the Court applied the "manner" of the statute for "ALL" of Mr. Cassidy's descendants; including his children.)

The Court concluded, (it was "thinking" for the statute; and admitted that it was applying the statute, AS THOUGH he died on 6/9/61—then the court said:— (quote)

> "In short, the lineal descendants provided for in the support payment clause were by no means intended by the testator to compromise the "lineal" descendants who were to divide the corpus of the estate."

Can a "testator" have two sets of lineal descendants "as though" he died at two different times?
Can the Maine Descent Statute vest an estate at a time when a deceased person did not die?

Can the laws of Maine be applied "without children"—IF children were living when "any" intestate estate vests?
Obviously the answer to the Court's assumption makes it wrong on at least (3) counts.

(1) Your petitioner WAS provided for by the testator; in BOTH instances.—(Support payments were received and part of the corpus)

(2) The Court was "thinking" and interfering with "the SAME manner and proportions as provided by the LAWS of Maine for the descent of INTESTATE property.

(3) Obviously the DEGREES of KINDRED had to be ascertained at the same time the "statute" fixed the SHARES for each AND ALL lineal descendants, the court's reasoning, OMITTED his children,—and they surely did exist, or the (4) (Cassidy) grandchildren, who were born after Mr. Cassidy's death,—would not be here today.

What the Maine Court can't seem to understand is that—THE COURT cannot OMIT children, from the application of the Statute. A Judicial Court cannot change the vested right of descendants; that is why we have a Legislature.

It is IMPORTANT to note:

That under the PROVISIONS of the "descent statute" Mr. Cassidy's CHILDREN—had to have vested rights to their deceased father's estate. Because they "survived" him. (at the date of his death) We must consider how and when and why;—(grandchildren) can now claim survivorship rights (as provided by the LAWS Of the State of Maine.) A premis may be confirmed by the definition in Black's Law Dictionary 4th Ed. p. 1615 which says (quote):

"SURVIVORSHIP" is where a person becomes entitled to property by reason of his surviving another person who had an interest in it." Mr. Cassidy left no doubt throughout the whole pattern of his will,—as to what he meant by LINEAL DESCENDANTS.

While Mr. Cassidy's descent was "lineal,"—and the Statute stood by, to do its DUTY at "all" times, for "ALL" of Mr. Cassidy's lineal descendants, the basis was that they were "all" known to be his descendants of unequal degrees of kindred.

All through this case, it is apparent that the Court's premis is built upon a FALSE and tortured artificial assumption that the testator "AS THOUGH" died on June 9, 1961. Then the court merrily went on, "without" the constitutional backing of "DEFINED" law, such as the practical application of the existing descent statute.

IN BRIEF:

IF LAWS can be wildly construed;—if the Constitution of the State of Maine and of the United States means anything; the standard provisions and public policy of the statute must INCLUDE "ALL" of any Maine citizen's "lineal descendants"—(his children and his grandchildren)—who were living at the TIME of HIS death. (The Maine Court should have STOPPED, here).

Those of Mr. Cassidy's "lineal descendants", who were not "OUT-TRUSTED"—and who lived until June 9, 1961; were entitled to LEGAL PERFORMANCE via: their VESTED rights to enforce a claim, on June 9, 1961,—AS PROVIDED by the PRESCRIBED LAWS of the STATE of MAINE, for the descent of a "previously undistributed" INTESTATE ESTATE, to descendants who were of unequal degrees of kindred, when the man "same as" intestate DIED.

I RESPECTFULLY continue to ask again:

"Did the Supreme Judicial Court of Maine—act in a correct and constitutional manner;—when it did NOT follow the SAME PROVISIONS which the laws of Maine apply to ALL Maine citizens ALIKE,—All I ask for is an honest, YES or NO answer to my petition.

It is well known law—that ALL court decisions based upon UNCONSTITUTIONAL law,—is NO LAW! (past, present, or future)

I respectfully request fair, EQUITABLE, re-consideration.

Edythe L. R. Dyer

March 29, 1965

c/o 61 State St.

Bangor, Maine

Petitioner Pro-Se

IMPORTANT NOTE

(BRYANT'S APPEAL 77 Conn. 240)

Even a letter or "other document" containing explicit directions for the disposition of property "cannot" become part of a will by REFERENCE, unless it be shown to have been in existence AT THE TIME the will is executed, and be so clearly and precisely described and referred to in the will as an "EXISTING" DOCUMENT as to be readily identified as (THE "PARTICULAR") PAPER intended by the testator. (Emphasis added) Fitzsimmons vs Harmon (108 Me. at p. 459)

PLEASE NOTE

Here the LAW of wills clearly prescribes the provisions of a document incorporated into a will;—must be existing—and THE PARTICULAR PAPER,—INTENDED by the TESTATOR.

Therefore it is rational to assume that the Maine DESCENT Statute in existence at the time Mr. Cassidy's will was "executed"—would by necessity NOT OMIT his children in the application of the Statute.

(PLEASE NOTE)

A well known principle of LAW quoted from Black's Legal Dic. (4th Ed. page 855) "HEIRS AT LAW—shall NOT be disinherited by CONJECTURE, but only by express words of necessary implication (Schoul. Wills. 479)

REFERENCES

IMPORTANT NOTE

THE MAINE LAW COURT cannot seem to understand that Mr. Cassidy's "lineal descendants" (in the plain and

common meaning of the Maine Descent Statute, as it is written)
MEANS:

That anything the descent statute provided for Mr. Cassidy's "SURVIVING" DESCENDANTS (on June 9, 1961)—must be on the BASIS of "ALL" of his HEIRS,—who were living at the time of his DEATH. (Mar. 25, 1918)

(and NOT "as though"—he NOW died on (6/9/61), without any OTHER HEIRS. (*) Bryant's appeal (77 Conn. 240)

OBVIOUSLY—his "SURVIVING HEIRS" on (6/9/61) are only SOME of his LINEAL DESCENDANTS, who were living when he died.

WHATEVER:—
The LAWS of Maine provide for the descent of INTESTATE PROPERTY—(for ALL of Mr. Cassidy's DESCENDANTS) the SAME (must be applied, according to the (unequal) degrees of HIS kindred FAMILY GROUPS, when HE DIED.

There is a DIFFERENCE between HEIRS and SURVIVORS of Heirs at LAW—"as provided" by the LAWS of Maine, for the descent of INTESTATE property.

There is a DIFFERENCE between a "previously undistributed" remainder estate;—and a remainder estate presently "NOW" intestate.

It is the DUTY of the Maine Court to PERMIT, me to claim my Constitutional Rights as NOW vested.
It would seem that there is "reasonable doubt" enough involved in this case;—for the Maine Law Court or The Supreme Court of the United States to ALLOW a writ of Certiorari.

IN THE INHERITANCE TAX CASE

Stetson vs Johnson 159 Me. 37

(re: this same Cassidy Case)

IN BRIEF:

For tax purposes this Court ruled that Mr. Cassidy died on (Mar. 25, 1918); BUT: for the DESCENDANTS vested rights to INHERIT property as heirs, this Court ruled "AS THOUGH" Mr. Cassidy died on (June 9, 1951).

How much proof do we need?—

The Court also said "IF meaning is doubtful and words of Statute OBSCURE court may properly take into consideration the practical consequences of any particular interpretation."

(Please Note)

HOWEVER the Court may do so ONLY IF the "statute" is OBSCURE.—Nobody can say that the long established standard pattern of the "Maine" descent statute is DOUBTFUL or OBSCURE!

However in (Murray vs Sullivan 158 Me. 98) (179 A, 2nd 307)—this Court applied the Descent Statute "AS THOUGH" Mr. Cassidy actually died "intestate"—(43) years after his actual death.—AND "AS THOUGH" he was survived by "ALL" of his descendants, who were of EQUAL degrees of kindred when HE DIED.

PLEASE NOTE

This is just NOT TRUE—the descendants were of "unequal" degrees of kindred—and when he died his CHILDREN survived him.

This Court REFUSED to PERMIT his "surviving" lineal descendants. (who then had VESTED RIGHTS)—to inherit his estate as PROVIDED by the LAWS of the State of Maine.

On June 9, 1961—Mr. Cassidy had been dead (43) years. —the ONLY manner and proportions which the statute could then provide FOR HIS DESCENDANTS. — TO CLAIM was on the basis of the UNEQUAL degrees of kindred, of his FAMILY GROUPS, for ALL of his descendants WHEN HE DIED.—Same as in the INHERITANCE TAX CASE.—Because the "manner" of the statute is not PROSPECTIVE or RETROSPECTIVE.

How can the Maine Court overlook or find jurisdiction to distort the Legislatures "public policy" and "statutory intent" which obviously requires "class status" to be FIXED and occur immediately at TIME of DEATH (Getchell vs Curtis 86 A. 699) (134 Me. 302)

Intent and construction must YIELD to an established rule of law and public policy. (Methodist Church vs Fairbanks 124 Me. 188) (126 A. 823)

OBVIOUSLY the testator (Mr. Cassidy) subrogated his ONLY INTENTION and all RIGHTS to be the SYNONYMOUS manner of the Maine Descent Statute on 6/9/61.

THERE IS A DIFFERENCE between what the LAW provides for the descent of INTESTATE property

A. WHEN a man is "now" dead (on 6/9/61)

B. WHEN a man, died (43) years previously.

But when we are talking about the STATUTE we are dealing with DESCENDANTS VESTED RIGHTS.

QUESTION:—

Does the Maine law court have the constitutional jurisdiction to construe with conjecture; and by so doing; may the COURT DEPRIVE "any" Maine citizen's lineal descendants of vested rights to CLAIM "their" LEGAL RIGHTS, to his intestate estate;—as provided by the LAWS of the State of Maine?

Regardless:—of what the Court has construed:

The Maine Legislature's Descent Statute, provides the answer for "ALL" Maine citizens RIGHTS;—and Mr. Cassidy's only possible INTENTION.

Regardless of the difference between the RIGHT to Vest and the Rights to Claim; the simple principle that NO COURT can.—"take a life, to save a life"—or—"break a law, to (in effect) make a new law"

OR "say that, HEIRS, CANNOT inherit property, vested in them, as provided by the LAWS of the State of Maine.

YOUR PETITIONER—NOW CLAIMS HER RIGHTS to Mr. Cassidy's estate which is now (1) (unrestricted) (2) (unlimited by a trust) and (3) (NOW VESTED)—in her, in the SAME manner and proportions as NOW provided by the LAWS of Maine, to a

(1) (previously undistributed intestate estate)
(2) (from a man who died (43) years ago)
(3) (on the basis that (ALL) of Mr. Cassidy's lineal descendants were of unequal degrees of kindred, when he died.

THIS IS WHAT I CLAIM.

P.S. "Surviving" lineal descendants are, as provided by the laws of Maine, to be ("SOME of, ALL of") a Maine citizen's descendants.

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of the

MAINE COURT'S STATEMENTS, and ANSWERS

The following assumptions and impossible, unworkable law fabricated into the court's tortured quotations,—are evidence enough to prove that something is NOT "just right." This case, and the pattern of the will can easily and truthfully be defined. It is not a THEORETICAL exercise in technical words or a field day for Judicial Fiction and special privilege. However the following quotations are so wild,—that the inherent conflict is between the LAW and the lawmakers.

(MAINE JUDICIAL vs. MAINE LEGISLATURE)

The Maine COURT has exceeded its "jurisdiction"—and admits, in the following quotations: from the Court's decision, in this case:—that which is OBVIOUSLY wrong.

(1) THE MAINE COURT SAID: (quote in part)

"We think it most natural and normal that the testator,—should view his "own" lineal descendants of equal degree as a NEW class standing on a basis of individual equality." (Emphasis added)

ANSWER:—

In frankness I ask:—were his "grandchildren" REALLY an individual class. Of course not! How could the court OMIT his children from the STATUTE? How could the court omit the "grandchild" who was the ISSUE of the child who pre-deceased him? How could the court honestly apply the statute AS THOUGH this man who died on March 25, 1918; is NOW DEAD (ON June 9, 1961); and

is NOW survived ONLY by his grandchildren,—as a class, —standing alone and away from his CHILDREN. (The FACTS are that BOTH CLASSES were living WHEN HE DIED.)

The assumption by the Maine Court that it HAS "applied" the Maine descent statute on (6/9/61) AS THOUGH Mr. Cassidy "naturally" discharged his obligation to his "children"—is impossible,—and contrary to the laws of Maine.

(2) THE COURT SAID: (quote)

"Certainly Mr. Cassidy did not intend to incorporate by reference 'portions' of the descent statute, which would solve no useful purpose, in resolving the dilemma for which it was invoked."

ANSWER: (Please note)

A man who's estate is intestate did not and cannot THINK:—that is why he is INTESTATE.

(Please note)

A "Judicial" COURT cannot THINK for the "vested rights" of any Intestate Maine citizen's DESCENDANTS;—that's why we have a LEGISLATURE.

(Please note)

A man who has a SPECIFIC problem and who decides to let the PATTERN of the LAW,—(and or castor oil) resolve it FOR HIM:—will be taken care of exactly as the SPECIFIC "PROVIDES."—without ASSUMPTION.

(3) THE COURT SAID: (quote)

"he called the statute into action to deal with a situation which could ONLY arise 'after' his children had died."

(emphasis added)

Note—PLEASE SEE: Bryant's appeal (77 Conn. 240) Fitzsimmons vs. Harmon (108 Me. at p. 459) The Particular Reference Document must exist when will executed.

ANSWER:—

The Rights Vested, in "all" of Mr. Cassidy's descendants, as provided by the LAWS of Maine, in his previously undistributed estate, require the date of his death to be the REQUIRED condition of the past, to be inherent in all heirs at all times, (and "now" on June 9, 1961.)

Here the Court really believes (that the LAWS of the State of Maine "must" adopt and "can" legally grant, "Special privilege" on the basis of the "Court's OWN" fictitious DEATH DATE.)

(4) (QUOTE THE COURT)

"it would be 'incongruous' to PERMIT the statute to operate 'as though' at least one child was living." (Emphasis added)

Answer: (Please note) How can the Statute OMIT children?

Here the COURT THINKS that the "statute" should distribute a man's intestate estate, and FIX the degrees of kindred for ALL of his lineal descendants;—AT THE TIME of "HIS" last surviving "CHILD'S" DEATH,—INSTEAD of at the time of the MAN'S DEATH. The reason given; is that the Court can not "permit" the STATUTE to PROVIDE anything except the court's artificial manner (because)--The Court THINKS,—this is the way the testator

would have wanted the LAWS of MAINE to "unnaturally" provide for his grandchildren; (namely) as though he never had any children. (This is impossible, unworkable, law) (in fact there is NO such law to substantiate the court's ruling,—it is "wild")

NO Maine citizen can be legally AS THOUGH NOW DEAD, on June 9, 1961 (as the Court has ruled)—when in fact he died (43) years prior on March 25, 1918. However, in this case, the Maine court HAS permitted this false assumption to dictate the MANNER of the statute (in a way) which does NOT provide for all Maine citizens, ALIKE. Of course when Mr. Cassidy died, he was survived by children, and grandchildren, of UNEQUAL degrees of kindred—the unchanged 1918, and the 1961,—statutes could only legally act upon the TRUE DEATH DATE—on a per stirpes basis. CHILDREN WERE LIVING when he died. How incongruous can a court get.

(5) (QUOTE THE COURT)

"The statute MUST be applied "AS THOUGH" the testator's death occurred immediately 'after' the death of his last surviving CHILD."

ANSWER:

(The death of his last child had nothing to do with the manner of the statute:)—The last child's death only terminated Mr. Cassidy's TRUST and allowed his surviving descendants to then claim under the WILL, and the provisions of the statute EXACTLY the same KIND of vested rights, to his previously undistributed remainder estate, AS THE LAW of Maine would then provide for ANY Maine citizen's descendants, who were of unequal degrees of kindred when the man intestate died.

Obviously any Court who "thinks" that it can (AS THOUGH) constitutionally s u b s t i t u t e A CHILD'S DEATH DATE,—for her FATHER'S death date,—and apply it in a statute:—(when it was the father's estate which was INTESTATE; and the father was really survived by the CHILD;—and other children) is pure unworkable, unconstitutional assumption by the COURT.

BUT OUR COURT said it!

In effect, the court also said:—

That the testator intended that the Statute MUST be applied, AS THOUGH the testator's death occurred—(at the termination of Mr. Cassidy's TRUST). Here there can be no doubt the Court was doing the THINKING for the STATUTE, in a manner, for which the STATUTE does NOT apply to any other Maine citizen. NOBODY can deny that this Maine court, went beyond the Pattern of the Statute in this case, and was "Thinking" for the STATUTE.

(6) (QUOTE THE COURT)

"whatever the respective shares of the ultimate takers, the remainder did not 'vest' in them 'until' after the death of the testator's last surviving child." (Emphasis added)

Answer:

In the "eyes" of the statute, the last child's death was meaningless. The Statute could not be "so" applied or legally provide anything in such a fictititous situation.

(1) Because the child is not the person whose estate is INTESTATE.

(2) It is "wild" to assume that a possible beneficiary could possibly FIX the degrees of kindred for

another man's descendants, or (in fact for his grandchildren).

(3) It would be a little impossible to be a possible beneficiary and a benefactor at the same time.

(4) This Assumption by the Court is another EXAMPLE of the unconstitutional, SPECIAL PRIVILEGE,—it has assumed.

(5) The Court is not God—it cannot do miracles, nor can the limited and restricted pattern of the statute, allow a court to vest property at "illegal" dates.

(6) The Court's assumption SUSPENDS the standard pattern and PLAIN MEANING of the Public Policy of the Statute, which requires it to appropriately provide only on the date of death of the man intestate.

A condition of the past is always inherent, in all heirs, at all times, if they were living at the TRUE date of the Decedants DEATH, when the man's estate became legally intestate.

(7) The Court agreed with the opponents who were referred to in the decision, as follows: (quote)

"The opponents assert that the statute should be applied as of the moment immediately following the death of the last surviving child."

Answer:

This INCONGRUOUS "rewriting" of the Statutory law of the State of Maine by the Supreme Judicial Court of Maine is UNCONSTITUTIONAL. (in effect, the court did not construe this will;—it rewrote it)

Your petitioner respectifully requests the Supreme Court of the United States to restrain the Supreme Judicial Court of Maine, from "THINKING" for; and perverting the Maine descent statute. And, arbitrarily NOT PERMITTING the statute to be applied, in this case, (quote the will) "In the SAME manner and the SAME proportions"—which the statute PROVIDES for ALL Maine citizens descendants ALIKE,—at all times.

E. L. R. Dyer

3/29/65